

Legislative Brief

*For the
Select Committee on Efficiency in Government*

Purpose

Identify opportunities for legislative relief to reduce regulation, administrative burden, and cost to the outfitting industry.

Premise

For the outfitting industry there is currently not only a high cost of regulation as measured by fees but an equally heavy administrative burden placed on the industry for compliance in submitting paperwork, reports and other requirements. The end result is the average licensee is subject to an unsustainable and undue burden.

Parties Represented

Preliminary analysis to date has involved the three major outfitting industry associations of Montana, namely: Montana Outfitters & Guides Association (MOGA); Fishing Outfitters Association of Montana (FOAM), and; Professional Wilderness Outfitters Association (PWOA). Between the three associations, more than 80% of the licensed outfitters/guides are represented. Additionally the residing Chairman of the Board of Outfitters has participated as an individual with the committee.

Salient Facts

1. Outfitters & Guides account for a substantial contribution to the tourism economy of Montana. A University of Montana study credits outfitting with annually delivering \$167 million to Montana's economy, providing \$51 million in payroll for nearly 2,600 full-time or seasonal jobs, and \$11.6 million to state and local taxes for road, schools and police.
2. Over the last 20 years there have been several amendments to MCA TITLE 37 CHAPTER 47 or complimentary law that have rendered the surviving elements in the code confusing, contradictory or irrelevant.
3. There has been an ongoing trend by the DLI and various sitting Boards to increase interpretive and often restrictive administrative rules in an attempt to codify or clarify vagaries in the statute. Unfortunately much of this increased administrative rules has not improved the overriding purpose of the Board...the protection of the health, safety and welfare of the public.
4. Per the minutes of the Legislative Economic Affairs Interim Committee from the January 2012 meeting:
 - a) The Board of Outfitters has the third highest cost per licensee and has the highest indirect payment percentage
 - b) Licensee total number have dropped from 2,462 FY 2010 to 1,671 FY 2011 or 32%
 - c) With the drop in licensees combined with projected increase in budget for the Board of Outfitters for FY 2012, average price per

licensee will increase from \$268 to \$385 or a 44% increase making it the 2nd highest license cost only behind CPAs

- d) The survey conducted by the Legislative Committee in preparation of the review revealed a resoundingly high level of dissatisfaction with the amount or overregulation of the industry
- 5. What the many oversight groups do not likely know, of all the licensed industries under DLI jurisdiction, the Outfitting Industry must have amongst the lowest per capita income with an estimated 80% of the 1,671 licensees making less then \$20,000 from outfitting/guide revenue sources.

Conclusion

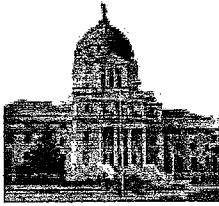
MOGA and PWOA are looking for BIG changes:

Materially reduce amount and level of paperwork

Eliminate "hassle" enforcement for petty administrative and unfounded complaints

Materially reduce MBO budget and therefore hold static or reduce license fees

A Committee of industry representatives has met and already agreed on a redlined version of Title 37. Various groups are also exploring the possibility of eliminating or modifying the guide's license, however consensus has not been reached. The group intends on performing an industry wide survey to determine other actions or issues that should be taken.



Legislative Background Brief

for the
Economic Affairs Interim Committee

January 2012

Board of Outfitters

Prepared by Pat Murdo, Legislative Research Analyst

Board (2-15-1773, MCA) = 7 members appointed by the governor (consent of the Senate not specified). Of these, 1 member must be a big game hunting outfitter; 1 member must be a fishing outfitter; 2 members must be engaged in the fishing and hunting outfitting business; and 2 members must be sportspersons. The remaining member represents the general public.

Board Members (end of term in parentheses)

<p>Licensed Representatives:</p> <ul style="list-style-type: none"> • Tim Linehan, Troy, big game outfitter (10/1/2014) • Lee Kinsey, Livingston, fishing outfitter (1/1/2013) • Shawn McNeely, Bozeman, hunting/fishing outfitter (10/1/2012) • John Wilkinson, Miles City, hunting/fishing outfitter (10/1/2013) • Carol Gibson, Billings, sportsperson (10/1/2014) • Hugo Tureck, Coffee Creek, sportsperson (10/1/2014) 	<p>Public Member:</p> <ul style="list-style-type: none"> • John Redman, Sidney (10/1/2014)
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Number of Licensees, FY 2011 1,671 **FY2010**2,462 **FY 2009**.....1,597

By Type, FY 2011: Guides 932 Outfitters 739

License Renewal Costs: Guide Annual Renewal \$150 for active (\$50 inactive)
 Outfitter Annual renewal \$375 for active (\$200 inactive)
 New operations plan review \$125
 Equipment inspection for new plan \$375
 Initial/renewal fee for each additional hunting camp \$5,000

Number of Complaints	Disciplinary Action (may be from other years)
FY 10	
FY 09 91	1 license revoked, 0 suspended, 49 dismissed 62 other sanctions and 6 investigations

Revenues/Expenditures FY2009-2010 and Budgets for FY2012-2013

	Revenues		Expenditures	
	Licensing	Other	Personal Services	Operating
FY 2009	\$644,331		\$619,523	
FY 2010	\$646,967 in base budget		\$658,896 actual*	
			Budgets in HB 2	
FY 2012			\$643,473	
FY 2013			\$643,785	

*Includes \$8,271.50 in nonbudgeted transfer from Budget Fund

Expenditures, FY 2010	Direct	Indirect	
		Admin	Div. IT/Bureau
Personal Services, incl. per diem	\$301,320	\$20,414	\$28,069
Operating Expenses			
Consulting, Printing, IT, Other	\$72,335		\$10,839
Supplies, incl. Computer	\$9,948		\$12,190
Postage, mailing, IT network, voice services	\$11,202		\$9,633
Travel for Board Members	\$22,894		--
Rent and other expenses*	\$15,686		\$54,336
Legal and hearings	\$83,760		--

*Includes motor pool leased vehicles of \$10,439, nonoffice equipment of \$2,190, repair and maintenance of \$1,597, single-user computers of \$736 and dues, education & training and fee collection expenses of \$725 for direct expenses and rent of \$18,885, repair and maintenance of \$31, DLI OIT expense of \$10,343, and indirect agency of \$25,077 for indirect expenses.

Scope of Practice

- Guide means, according to 37-47-101(7), a person "who is employed by or who has contracted independently with a licensed outfitter and who accompanies a participant during outdoor recreational activities that are directly related to activities for which the outfitter is licensed."
- Outfitter means, under 37-47-101(11), a "person, except a person providing services on real property that the person owns for the primary pursuit of bona fide agricultural interests, who for consideration provides any saddle or pack animal; facilities; camping equipment; vehicle, watercraft, or other conveyance; or personal service for any person to hunt, trap, capture, take, kill, or pursue any game, including fish, and who accompanies that person, either part or all of the way, on an expedition for any of these purposes or supervises a licensed guide or professional guide in accompanying that person."

2011 Legislation Impacting Board or Profession

- HB 94, sponsored by Rep. Arntzen at the request of the Department of Labor and Industry, generally revises reciprocity and other board functions. (Became law)
- HB 458, sponsored by Rep. Jeff Welborn, revising laws related to outfitting and net client hunter use -- in response to changes in effect after voters in 2010 passed Initiative 161 to change how hunter access programs are funded and removing outfitter-sponsored licenses (Vote = 187,870 for and 161,201 against.) The initiative was effective March 1, 2011.

Other References in Statute to Outfitters:

- 23-4-408, MCA, regarding management of the Smith River allows a portion of permits to be allocated to licensed outfitters.
- 45-1-205, MCA, regarding a 3-year statute of limitations for misdemeanor violation of laws regulating outfitters and guides.
- 50-51-103, MCA, says Department of Public Health and Human Services may develop voluntary guidelines for outfitting and guide facilities in a negotiated process in cooperation with outfitters and guides. The guidelines are not to be regulatory.
- 87-1-269, MCA, says the governor is to appoint a committee that includes outfitters interested in hunting or fishing access enhancement programs, landowner-hunter relations, outfitting industry issues. The committee is to report to the governor and each legislature and is to be assisted by the Department of Fish, Wildlife, and Parks.
- 87-1-503, MCA, makes the Board of Outfitters executive director and investigator ex officio wardens, able to enforce violations of Title 37, chapter 47, and related rules.